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COMMITTEE ON THE RIGHTS OF THE CHILD

Fifteenth session

SUMMARY RECORD OF THE 375th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 21 May 1997, at 3 p.m.

Chairperson: Miss MASON

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GE.97-16716 (E)

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 6) (continued)

Initial report of Cuba (CRC/C/8/Add.30, CRC/C/Q/CUB.1) (English and Spanish only) (continued)

1. At the invitation of the Chairperson, the members of the delegation of Cuba resumed their places at the Committee table.

2. Mrs. SARDENBERG said that, if she had understood correctly, the Prevention and Social Welfare Commissions played a significant consultative role in the protection of the rights of the child; she inquired whether that body might also be given a leading role in informing public opinion about related programmes. She pointed out that, although the commitments undertaken by Governments within the framework of the national action programmes adopted in consequence of the World Summit for Children were of a political nature, commitments undertaken under the Convention were of a juridical character. That was an essential distinction; it would be interesting to know if the Cuban Government intended to integrate the terms of its National Action Programme for Children into the national legislation.

3. It would also be useful to know in what way policies adopted at the central level were implemented at the local level. Furthermore, although Cuban law clearly prohibited all forms of discrimination, what was the real situation? Did racial discrimination exist in practice? Finally, in consequence of its ratification of the Convention and the consideration of its initial report by the Committee, did Cuba intend to revise those legislative provisions which related to the protection of the rights of the child?

4. Ms. ALIÑO (Cuba), replying to questions raised at the previous meeting, said that within the context of Cuba's free universal health-care system, family doctors, each of whom had a caseload of 600 to 800 individuals, could easily identify those families in which a child stood to be the victim of abuse when they made their community rounds. Furthermore, all children received regular medical checkups, which likewise allowed for the detection of possible abuse. Medical doctors were obliged, under the health law, to inform the authorities of all cases of ill-treatment that came to their attention. When such a case arose, the child was taken into care and rehabilitated within his own community. Lastly, with regard to the dissemination of the Convention, it should be noted that, with the assistance of UNICEF, the National Mother and Child Care Programme held regular meetings to familiarize members of the medical corps with its provisions.

5. Ms. DE PUZO (Cuba) said that although violence within the family did not constitute a significant social problem in Cuba, prevention mechanisms and sanctions had been established for individual cases that might arise. There were also mechanisms, described in the report, under which children whose rights had been violated could have recourse to the courts. When the interests of the child and those of the parents clashed, the judge was obliged to protect the child.

6. Ms. BERETERVIDE (Cuba) said that under Cuban law, the age of criminal responsibility was set at 18 years. However, for anyone between the ages of 18 and 20 found guilty of an offence, the court could reduce by a third the minimum and maximum limits of the applicable punishment and reduce by half that of minors between the ages of 16 and 18. Instead of being judged by the courts, minors under the age of 16 who committed an offence or manifested antisocial behaviour were taken into the care of a system of special institutions which took a pedagogical approach to the treatment of youthful offenders, and benefited from the services of educators, lawyers, and other specialists. Standards applied in Cuba in the area of juvenile justice administration were generally superior to those applied in other parts of the world. In fact, the utmost was done to see that most of the young people detained in those institutions acquired skills which would allow them upon leaving to practise an occupation.

7. Child prostitution was a phenomenon of increasingly alarming proportions throughout the world. In Cuba, the problem of prostitution, which included juveniles in a small number of cases, had emerged only after the country had opened its doors to tourism. And yet, the young women and girls who engaged in that sort of activity did not do so for the same economic reasons as those who had engaged in prostitution before the revolution, since they received, for instance, free health care and free education for their children. The Cuban Government had published material to alert communities to that problem, and to inform them that the education of young people was the responsibility of all. Courses were held for the young women in question; and social workers conducted monitoring and protection programmes. Despite the considerable efforts of educational institutions to instill a healthy attitude towards sex, prostitution continued to be a matter of concern for both public institutions and the various Cuban non-governmental organizations (NGOs).

8. Ms. FLÓREZ PRIDA (Cuba) pointed out that Cuba had only recently developed the tourist industry, for economic reasons, and that prostitution, which was linked to the rise in tourism, was relatively new in that country. It was worth noting, in that context, that Cuban law proscribed economic exploitation and that the courts dealt with such cases very severely.

9. Cuban law also prohibited all forms of discrimination, whether based on sex, race, colour, religion or national origin. According to article 295, paragraph 1, of the Criminal Code, all persons found guilty of discrimination for one of the aforementioned reasons, or who fomented ideas based on the superiority of a given race, would be subject to imprisonment or fine. It should also be pointed out that the population of Cuba was 66 per cent white, 33 per cent mestizo and black, and 1 per cent of Chinese extraction; the very diversity of the population accounted for the richness of Cuban culture.

10. With regard to legislative reform, she stressed that Cuban law in the sphere of children's rights had been comprehensive well before the United Nations had adopted the Convention. The Cuban authorities had therefore deemed it sufficient to fill gaps in the existing legislation.

11. Mr. KOLOSOV noted that questions 11 and 12 of the list of issues (CRC/C/Q/CUB.1) had not been satisfactorily answered, and made a number of remarks about that part of the written replies which touched on the definition

of the child. Firstly, the minimum legal age at which a child could be given a medical or legal consultation without parental consent, and in particular a surgical procedure, was not specified. Secondly, there was an obvious gap between the age at which the child was no longer compelled to attend school (12), and the age at which he could be employed (17); that five-year interval seemed long. He wondered whether the minimum working age should be lowered, or the age requirement for compulsory education raised. Thirdly, the minimum age for consensual sexual relations should be specified, since an adult could be prosecuted for engaging in sexual relations with a person who was not of age, even if consent had been given. Nor had data been supplied with regard to the age at which a citizen could have recourse to a court of law, receive an inheritance, engage in real-estate transactions, open a bank account, or consume alcoholic beverages. In that regard, he referred to the general guidelines regarding the form and contents of periodic reports, which indicated that States parties should address those matters.

12. Ms. OUEDRAOGO requested a response to her question as to what measures were taken to what was done to protect child victims of prostitution.

13. With regard to the definition of the child, she pointed out that although the age of majority was 18, the age requirement for a number of activities varied; should they not be harmonized? Noting that the age of marital consent was not the same for girls and boys, she welcomed the envisaged legislative reform and hoped that the new provisions would more closely conform to the conclusions of the Fourth World Conference on Women, Beijing.

14. Mr. FULCI, reverting to the matter of the adverse effects of tourism, said that although it was regrettable that a certain type of tourism brought an increase in pornography involving and the sexual exploitation of children, tourism was not only an economic asset but a means by which peoples could become better acquainted with each other and better aware of the interdependence of the countries on the planet. A solution might consist of sending special teams into countries opening up to tourism; the record showed that such interventions could yield excellent results. In addition, countries with morally healthy environments were more likely to attract tourism.

15. Furthermore, paragraph 64 of the report, under the section concerning family environment and alternative care, offered what appeared to be insufficient information. It stated, on the one hand, that children were rarely abandoned, and on the other that there were 15 centres and hostels for minors without families. Information was lacking on the number of abandoned children and the size of the centres and hostels, which would give some indication of the scope of the problem.

16. Mrs. SARDENBERG said that, when she had formulated her recommendations concerning the Prevention and Social Welfare Commissions she had not intended to impose anything whatever on a sovereign State, but rather to suggest ways by which the will of the Government might achieve political visibility. She noted that there was also a commission responsible for monitoring the implementation of government programmes for women, children and youth; in her view, that commission might also review the success of that implementation and propose policy reforms.

17. Turning to the matter of discrimination, she recalled that discrimination was practised despite the legislation that prohibited it, because modifying legislative texts was easier than changing attitudes. What was the view of the Cuban delegation in that regard? Had that situation begun to evolve?

18. With regard to the information concerning adoption supplied in paragraphs 65 and 66 of the report, the Cuban delegation should explain how, on the one hand, only 1 per cent of socially disadvantaged children were eligible for adoption, while on the other, some 1,000 children had been adopted since 1982. She would like a response to the question raised concerning the possible ratification by Cuba of the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption.

19. Mrs. KARP said she could see no justification for the declaration concerning article 1 entered by Cuba at the time of its ratification of the Convention, and requested clarification on that point.

20. She joined with Mr. Kolosov in inquiring about the age requirement for compulsory education. That was a pertinent question in a time of economic crisis in which parents often encouraged children to work for pay, and children often failed to attend school in the interests of helping out their families. In her view, Cuba should consider raising that age requirement.

21. The marriage age was also a matter of concern. A child who married - at age 15 for a boy and age 12 for a girl - in effect became no longer a child. Did he not also lose the protection accorded to that sector of the population? She wondered whether the marriage age should consequently be modified. Also of concern was prostitution, another instance in which the child became no longer a child. She inquired whether legal protection was envisaged for all children of age 18 or younger, whatever their status.

22. Ms. MBOI commended the Cuban authorities for according priority to health and education, areas in which the island had achieved remarkable results. Problems nevertheless persisted, particularly in regard to child prostitution, HIV/AIDS, and other sexually transmitted diseases (STDs). Although those were problems that a country could not solve alone, domestic measures must also be taken. She regretted that Cuba had not replied to question 32 and had failed to provide information as to the trends shown by those phenomena. Solutions to the new problems which abuse and the traffic in narcotic drugs presented for children lay in regional and international cooperation: Did the Cuban delegation have any suggestions as to the form which that cooperation could take?

23. With regard to family planning and abortion, answers had been provided to questions 23 and 31. And yet, according to the official statistics, 70 per cent of all pregnancies had been terminated by abortion in 1992. Data were lacking with regard both to the subsequent evolution of that phenomenon, and to what programmes had been envisaged in the area of family planning, especially for young people. In the light of the Cairo and Beijing Conferences, those questions were more pertinent than ever.

24. Mrs. KARP inquired whether there were instances of children committing suicide in Cuba, and whether research had been conducted in that regard. The question was important because the situation in Cuba, particularly from an economic point of view, could well lead children to lose faith in the future.

25. More detailed information should be offered concerning child accidents in the home, school, or elsewhere, and concerning what measures had been taken to prevent them.

26. The section of the report concerned with general principles called for further clarification, and in particular concerning the development of a child not only as a member of a community but also as an individual, the growth of his sense of human dignity, and his ability to express his opinion and to have his views heeded. An analysis of those provisions of the Convention which touched on civil and individual rights could well complement the efforts made by Cuba in the area of education and social services.

27. Mr. RABAH said he was troubled by certain aspects of the juvenile justice system. He would like to know if there was a law concerning justice for minors and youthful offenders, what measures were taken to prevent criminal activity in young people and to ensure the reintegration of youthful offenders, whether legal and practical measures had been established for the protection of detained children. What, for example, happened to a minor who was sentenced, at the age of 16, to 3 years or more in prison, when he reached 18? Was he then transferred to a prison for adults? The Cuban delegation should provide statistics on juvenile crime, sorted by age. Lastly, he inquired what role NGOs played in the administration of juvenile justice.

28. Ms. MOKHUANE requested additional information on paragraphs 71 and 72 of the report. Paragraph 72 indicated that 100 per cent of children with behavioural problems were enrolled in school, and that there were currently 35 special schools for such children, among them 13 of the new type: what was meant by "behavioural problems" and by "schools of the new type"? She wondered, furthermore, whether it was possible that all children with behaviour problems could be enrolled in school, or, in other words, whether it was possible that none were outside the school system. The Government should describe the measures it undertook to monitor the mental health of children, beyond those applied under the terms of the Family Code and the Children's Code.

The meeting was suspended at 4.35 p.m. and resumed at 16.50 p.m.

29. Ms. FLÓREZ PRIDA (Cuba) said that the Family Code established the age of marital consent at 18 for boys and girls, and permitted that age to be dropped to 16 for boys and 14 for girls under certain circumstances. And yet, the Family Code was being revised to establish the same age of marital consent for both boys and girls. That revision took into account the conclusions of the Beijing Conference and the recommendations of the Committee on the Elimination of Discrimination against Women. The Committee would be promptly informed of the results of that process.

30. In Cuba, all persons over the age of 18 had full legal capacity. The Civil Code provided that the legal guardian of a minor or the Public Prosecutor would represent the minor in certain civil matters. Furthermore, a minor was entitled to legal representation. Although a child's access to health care required parental consent, his best interests were taken into account. Education was compulsory until the age of 12.

31. Mr. AMAT (Cuba) said that the differences between civil majority, criminal majority, electoral majority, the minimum working age and the age of marital consent were attributable to the fact that the relevant legislative texts had been adopted at different times. Before the revolution, the age of civil majority had been 21; currently it was 18. The draft new Family Code, taking into account the legal instruments to which Cuba was a party, would establish the same age of marital consent for boys and girls. The theory that girls matured sooner than boys was no longer applicable, in particular because of the strides taken by the movement for the equality of men and women. Furthermore, although the age of criminal majority was 16, the court was obliged to reduce the sentence if the guilty party was less than 18.

32. In Cuba, the age of electoral majority was 16, and Cuban youth, who had demanded that right at several congresses, thereby made a very useful contribution to civic life. Minors could begin to work at the age of 17. Education was compulsory through the sixth grade, which was the final year of primary education. Most Cubans nevertheless pursued their studies through the ninth grade. Girls sometimes left school at the age of 16 for family reasons or because they had married. The Ministry of Education had therefore mounted a campaign to encourage girls, and young people in general, to resume their studies, by providing them with social assistance. In addition, work-study programmes had been established so that young people who did not wish to pursue secondary studies could learn a trade.

33. Unlike the exploitative use of prostitution, which was severely punished, prostitution itself did not constitute a criminal offence. That problem was not, however, any more common in Cuban society than the use of drugs. With the development of tourism, several isolated cases of tourists consuming drugs had been recorded. Cuba, which was situated between the drug-producing countries of South America and the drug-consuming countries of North America, had received international assistance, particularly from the United Nations, to halt that scourge. Cuban law established heavy sanctions against drug users.

34. In Cuba, respect was paid to a child's individuality, as well as to his cultural, intellectual, athletic and artistic development, such that he could find his place in society. In accordance with the teachings of the national hero José Martí, children were inculcated with the love of work and respect for the community, the fundamental precepts of collectivism. Cuba's successes over the preceding 37 years in the areas of health, education and high-level sports should suffice to show that not arousing individualism and egotism in children was important.

35. Youthful offenders were given psychological and social assistance, and, when necessary, were placed in the new schools, where they received the same education as in other teaching institutions. The new schools were open

institutions where children could be visited by their families, and where the utmost was done to provide them with an education which would permit their reintegration into society.

36. Offenders over the age of 16 who had been sentenced to prison were kept separate from detained adults, insofar as possible. Minors found guilty of petty offences could pay visits to their families. Court decisions rendered in cases involving minors could be appealed against to such competent instances as the Supreme Court, and the review of a decision could be requested from the Ministry of Justice.

37. Ms. DE PUZO (Cuba), replying to a question raised by Mr. Kolosov concerning the age of sexual consent, said that Cuba's Criminal Code presumed the absence of consent in any instance of sexual abuse committed against a minor, and established that the age of the victim was both a factor, and an aggravating circumstance in a number of sexual offences (inter alia, pederasty, sexual abuse of a minor between the ages of 12 and 16, and corruption of a minor). The chief concern was not the establishment of an age of sexual consent but the protection of minors in accordance with their age. Thus, for example, a minor emancipated by marriage continued to enjoy those guarantees established by law for other minors. Furthermore, Cuba was assessing whether to accede to the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption.

38. Ms. BERETERVIDE (Cuba), offering clarifications with regard to the special schools mentioned in paragraph 72 of the report, said that the country had 35 such schools, whose task was to determine what measures to undertake with regard to minors under the age of 16 with behaviour problems. The new schools were establishments equipped with optimal facilities for taking care of that category of minors.

39. With regard to special education, Cuba had 252 facilities for the mentally disabled, among them 24,051 minors; 17 facilities for the hearing and speech-impaired, which cared for 1,772 persons; 7 facilities for the blind and sight-impaired, which cared for 842 persons; 13 facilities for 1,298 strabismic persons; 8 facilities for the treatment of language difficulties, which cared for 560 persons; 92 facilities for the treatment of retarded psychological development, which cared for 21,151 persons, and 1 facility for those with psychomotor disorders, which cared for 659 persons. In addition, 75 hospital-based classes had been established throughout the country for children who for health reasons could not participate in a regular teaching regime. Lastly, there were itinerant teachers who made home visits to children who could not attend school, as, for example, after surgery.

40. With regard to children without the protection of a family, Cuba had a network of child facilities: homes for children under the age of 6, homes for children over the age of 6, and homes for young people over the age of 17, which housed young people taken into the care of the State until they reached the minimum working age, and while they waited for employment or housing. All such children benefited from the services of specialized staff and were integrated into the regular education system. Those establishments served as substitute homes for children whose parents were serving prison terms, for

semi-abandoned children, and for those whose parents suffered from psychological problems which prevented their raising them. The conditions in those establishments, many of which had been homes for the wealthy before the revolution, were excellent. It should be added that some foreign organizations had provided assistance to the residents of those homes in the form of clothing, food and toys.

41. Ms. ALIÑO (Cuba) said that STDs had infected very few minors, and did not constitute a public health problem, despite the several cases of AIDS infection by transfusion or mother-child transmission that had been noted. Cuba was not, however, beyond the reach of such illnesses and had therefore formulated a set of information, education and communication strategies designed to promote risk-free sexual behaviour, with a view to protecting the population in general and youth in particular. Family medical clinics, which were located in all communities, had youth units which disseminated information on significant health issues and provided sex education, with particular attention to the prevention of early pregnancy and STDs. The student organizations represented on the National Health Service had determined that, for the purposes of awareness-raising, those units would be far more effective if they were located in schools. A decision had therefore been taken to engage the participation of the Ministry of Education, and to involve teachers, and students at all grade levels, in a programme designed to promote a healthier lifestyle.

42. Before the revolution, the chief cause of maternal mortality had been illegal abortion, and a decision had consequently been taken to legalize the termination of pregnancy. While not promoting or condoning abortion, the Ministry of Health sought to ensure that abortions were carried out under acceptable conditions. Despite the limited availability of contraceptives, the abortion rate had dropped in all age groups in Cuba, and in particular among women under the age of 21; despite the lowered birth rate, abortion had diminished in relative terms. No measures were taken in Cuba to limit the number of births; couples were free to decide on the number and spacing of children. Nevertheless, with a view to promoting reproductive health, campaigns had been conducted to encourage couples to allow a greater interval between births and thereby to improve the health of mother and child. Clinics offered all available family planning options; specialized clinics dispensed the more costly contraceptives only to couples at risk, as, for example, if the mother was diabetic or afflicted with some other illness.

43. There was no drug problem among young people in Cuba because there was no drug traffic in the country and because all psychotropic substances were strictly controlled and available only by prescription. Furthermore, suicide was rare among minors, as demonstrated by statistics published by WHO concerning the causes of mortality. Accidents, however, constituted a serious health problem, and were the primary cause of death after the first year of life. In 1996, a programme had been mounted to prevent accidents among persons under the age of 20, which complemented similar activities envisaged for the National Mother and Child Care Programme. One of the 13 principal intervention themes identified within the context of the Ministry of Health's overall strategy was the accident-prevention campaign, and workshops had been organized throughout the country to sensitize the population to that issue. Such NGOs as the Federation of Cuban Women had also played an important role

in that area. On the basis of pilot programmes, which had revealed that children did not know that accidents often caused death or damaged the quality of life, a series of awareness programmes, many of them supported by UNICEF, had been conducted in the schools. In addition, a manual - developed with the assistance of international organizations - had been distributed to all doctors to familiarize them with child-related accident prevention and treatment measures. It also dealt with the rehabilitation and psychological treatment of children who had suffered from accidents.

44. Ms. FLÓREZ PRIDA (Cuba), replying to the question raised about racial discrimination and discrimination against women, said that although there were laws and regulations prohibiting such discrimination, certain people harboured racial, religious and gender prejudices. As a result of the Beijing Conference, the Government had organized a workshop to formulate guidelines for the various administrative entities with a view to improving the situation of women, and in particular to ensuring that they were fairly represented in decision-making and management positions.

45. With regard to international cooperation, Cuba had indeed benefited from the assistance and cooperation of international bodies, but it should be remembered that it had also given assistance to other countries, as, for instance, when it had, despite economic and financial constraints, provided totally free treatment and care to 14,000 children affected by the explosion at the Chernobyl nuclear facility. Cuba also planned to develop health tourism, by opening the medical and hospital facilities located in tourist zones to visitors from neighbouring and other countries.

46. The CHAIRPERSON thanked the Cuban delegation and said that the questions that had not been answered would be taken up at the next meeting.

The meeting rose at 6.05 p.m.

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COMMITTEE ON THE RIGHTS OF THE CHILD

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SUMMARY RECORD OF THE 376th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 22 May 1997, at 10 a.m.

Chairperson: Miss MASON

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CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

Initial report of Cuba (continued)

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GE.97-16720 (E)

The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 6) (continued)

Initial report of Cuba (continued) (CRC/C/8/Add.30; CRC/C/Q/CUB.1)

1. At the invitation of the Chairperson, the Cuban delegation resumed its place at the Committee table.

2. Mr. KOLOSOV asked whether the special schools, of which there were some 13 in Cuba, came under the authority of the country's Ministry of the Interior or of the Ministry of Education. He would also like to know whether officials working with or on behalf of children were given training in children's rights and, if so, how was the training system organized?

3. Mrs. KARP reminded the Cuban delegation that it had not yet responded to the Committee's request for clarification of Cuba's declaration relating to article 1 of the Convention, (CRC/C/2/Rev.6) that majority was not attained at 18 years of age for purposes of the full exercise of civic rights in Cuba.

4. When the Committee expressed concern about the disparity between boys and girls in terms of the age of marriage, it was referring not just to discrimination as such but to the risks associated with early marriage for girls: possible physical and mental damage or damage to health; disadvantages suffered by children born to immature mothers; narrowing of girls' prospects for further study and self-development. Although she realized that early marriages were often the preferred solution to the problem of early pregnancy, she wondered whether it was a sound policy to address one problem by creating another.

5. Children were too young at the age of 12 years to choose or to have their parents choose for them between further study and work in the informal sector. Under adverse economic circumstances such as those prevailing in Cuba, she feared that the second alternative would be favoured. The statistics furnished, which covered the period up to 1993/1994, showed a decline in enrolment at the secondary and higher levels of education and a reduction in the number of scholarships. Moreover no indication had been given of the drop-out ratio. She asked for more recent and more comprehensive statistics and suggested that Cuba should raise the age of compulsory education in the best interests of children.

6. The Cuban Family Code referred to the best interests of the child. How was the term interpreted by the courts and the administrative authorities when a conflict arose between the interests of children and those of their parents or of other children, or among a child's different interests?

7. She asked whether corporal punishment was prohibited in schools and other institutions or as a penalty in the judicial system and whether it was prevalent in the home. Was any action being taken to eradicate corporal punishment?

8. Torture was prohibited by the Cuban Constitution. What procedure existed to consider complaints of torture involving children? Had a special

body been established for the purpose which was independent of the public authorities? Was there any provision for compensation and rehabilitation of victims? In particular, she wished to know whether there had been complaints of ill-treatment of children by the police or other authorities.

9. In the absence of a legally established age of sexual consent in Cuba, she understood that rape was defined solely in terms of the consent or otherwise of the victim. In many other countries, it was an offence to have sexual intercourse with a girl or boy under a certain age even where consent was obtained, on the ground that it was not informed consent. She recommended the inclusion of such an offence in Cuba's Criminal Code.

10. In its Agenda for Action, the World Congress against Commercial Sexual Exploitation of Children, held in Stockholm in 1996, had encouraged countries to develop legislation that would establish the criminal responsibility of customers of child prostitution in addition to that of service providers. It had further recommended that both girls and boys should be protected up to the age of 18 years.

11. According to the delegation, children's complaints were addressed to the Prosecutor-General or the Ministry of Justice. In the Committee's view, the complaints machinery should be independent of the authorities against whom a complaint was being filed and it should be accessible to children confined, for example, in welfare institutions or institutions of juvenile justice. She proposed that a system of redress along those lines should be established in Cuba.

12. Cuba had a highly developed welfare and education system. She feared, however, that in a welfare-oriented society the best interests of the child might be equated with the goals of welfare theories. Who decided, for example, to remove children from their home? Were the child's wishes taken fully into consideration? Some countries had introduced the institution of the guardian ad litem, who represented children vis-à-vis the authorities, expressing their wishes and views. She suggested that Cuba should consider ways of taking the child's interests into consideration from his or her own perspective.

13. What kind of treatment could children who were HIV-positive expect in Cuban society? Could they continue their normal schooling or were they separated from other children and hence stigmatized?

14. She asked for further information regarding the Cuban Plan of Action concerning accidents, in particular whether it included an investigation into the safety of playgrounds.

15. With regard to juvenile justice, she understood that 16 years was the age of criminal responsibility. When children under the age of 16 were committed to welfare or special education institutions on suspicion of having committed an offence, how were their rights safeguarded in the absence of an investigation to establish their guilt? In the case of young people over the age of 16 years, the Committee had not received disaggregated data regarding the number of children involved in criminal proceedings, the offences with which they had been charged, the number of custodial sentences handed down and

the ratio of such sentences to alternative forms of punishment. She suggested that Cuba should include such data in its next report. She also recommended that young people under the age of 18 should be tried in juvenile courts.

16. The Cuban legislation prohibiting night work by children under the age of 18 years between 10 p.m. and 6 a.m. was not in conformity with Convention No. 79 of the International Labour Organization (ILO) concerning the Restriction of Night Work of Children, which provided for a period of rest of at least 12 consecutive hours. The Cuban Government had undertaken to remedy the matter by amending the relevant legislation. Had it already done so?

17. Ms. FLÓREZ PRIDA (Cuba) said that article 1 of the Convention defined the child as every human being below the age of 18 years unless majority was attained earlier under the law applicable to the child. Cuba had made its declaration in relation to that article because majority was attained earlier under its legislation for certain purposes, including marriage, concluding work contracts and voting in elections. The Family Code set the minimum age for marriage at 14 years for girls and 16 years for boys, since the traditional view in Cuba was that girls reached marriageable age sooner than boys. It could be argued for that reason that boys had been discriminated against rather than girls. However, the legislation was currently being amended to ensure gender equality.

18. Mr. KOLOSOV, referring to paragraph 29 of the report (CRC/C/8/Add.30), said that the Convention itself provided for different ages for certain acts, or what was known as "partial legal capacity". He therefore saw no need for Cuba's declaration relating to article 1.

19. Mrs. SARDENBERG noted that the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights had encouraged States to review any reservations to international human rights instruments with a view to their withdrawal. As there seemed to be no practical reason for Cuba's declaration on article 1, she recommended that the Cuban Government should consider withdrawing the declaration as an important political gesture.

20. She disagreed with the view that girls enjoyed any advantage through being allowed to marry at the age of 14 years. On the contrary, they were entering the adult world too soon and were being deprived of the safeguards accorded to children. Legislation should evolve in line with social change and Cuba would do well to re-examine the whole structure of ages for various activities in the light of the Convention and the new moral code it had established.

21. Mr. FULCI said that the Committee was entering a highly sensitive political area and was in danger of acting ulta vires. Its main purpose was to see that the Convention was implemented and, while he was not in favour of conditional ratification, that was a right of States parties which was generally recognized.

22. The CHAIRPERSON said that, in her view, it was the Committee's duty to bring to the attention of any reporting State party the recommendations of the Vienna Declaration of 1993 concerning reservations and declarations.

23. Ms. FLÓREZ PRIDA (Cuba) said that education in her country was compulsory up to the age of 12 years. Cuba had a population of 11 million, and there were 2,200,000 students at all levels, in more than 10,000 educational institutions. She would provide the Committee with education statistics for 1996 and 1997, broken down according to subjects and geographical areas.

24. No children were held in prison in Cuba. In certain cases children were placed in specialized educational institutions because they had committed non-criminal offences. Children were not subjected to torture.

25. Ms. BERETERVIDE (Cuba) said that Cuba's specialized educational institutions functioned under the authority of the Ministry of Education; they did not come under the Ministry of the Interior. As indicated in paragraph 72 of the report (CRC/C/8/Add.30), there were at present 35 special schools, 13 of them being of a new type. As for the kind of teachers who worked in special education and how they were trained, she said that there were diagnostic and orientation centres part of whose function was to train such teachers but whose main goal was to detect as quickly as possible in the regular schools whether an individual child had need of special schooling. All teachers were entitled to a one-year sabbatical during which they upgraded their skills or undertook training in new ones; many opted to train in the diagnostic and orientation centres, developing systems for the special schools with the assistance of teams of psychologists, educationists and legal experts.

26. With reference to the sexual exploitation of children, she said that prostitution as such was not considered an offence in Cuba, but anyone who benefited from it was considered to be an offender and sanctions were imposed. Anyone, apart from the prostitute, found guilty of involvement in child prostitution or of inciting minors to engage in prostitution was punished severely. Cuba's attitude to prostitution itself was to help the person concerned and give him or her - whether child or adult - special treatment. A social welfare officer specializing in that area took charge of their care, but also examined the family situation and other factors that might have caused the individual to engage in prostitution in the first place.

27. Ms. ALIÑO (Cuba) said that in Cuba there was no discrimination against children who were found to be HIV positive; their parents were informed and given help in dealing with the problem. Children showing symptoms were given medical treatment.

28. The problem of accidents in recreational areas was dealt with by a national health council and a national accident prevention commission, but basic protection was provided by the family doctor. Considerable efforts were being made to improve security in the home and at school by identifying potential hazards for children and dealing with them either by taking safety measures or by limiting access. Communities, schools and homes were obliged to declare any accident risks and try to raise their levels of safety.

29. Ms. FLÓREZ PRIDA (Cuba) said that corporal punishment in schools did not exist, was prohibited and had never been authorized. Schools had parents'

associations which met on a regular basis to discuss problems that arose with the children, disciplinary matters and questions concerning the administration of the school.

30. Ms. ALIÑO (Cuba) said that family doctors, nurses and social welfare workers realized that health was a complete state of well-being and not simply a physical concept. There were family doctors in schools and play centres one of whose tasks was to check on cases of physical and psychological maltreatment, which they were then obliged to report to the authorities. An early warning system had been established for reporting all acts of violence committed against children, and in the past two years there had been a number of events and meetings dealing with the maltreatment of children and involving those concerned with their health care. All doctors in Cuba knew that they were under an obligation to detect cases of violence against children and to report them.

31. Ms. DE PUZO (Cuba), referring to the question of the age of consent for sexual activity, said that whether or not the activity constituted an offence was not determined in terms of age. Sexual offences were treated as more grave if the child was younger, but the difference lay in the severity of the sanctions imposed. Cuba's penal legislation contained a list of offences against children.

32. With regard to the right of children to have recourse to authority, a child could address a children's magistrate or a district court judge dealing with juvenile issues. Children could not have recourse to the Prosecutor-General's Office.

33. Offences committed by children under the age of 16 were not regarded as crimes. Juvenile offenders between the ages of 16 and 18 benefited from special treatment: they were not imprisoned together with adults, and were dealt with according to their age, being taught skills with the aim of changing their attitude and behaviour and equipping them for reintegration into society.

34. In relation to the right of the child to rest and leisure, child labour did not exist in Cuba, either by day or by night, and young persons just above the minimum age for work had shorter working hours than adults. Learning and work were combined at certain stages in Cuban schools.

35. There was no corporal punishment in Cuban schools, torture of children did not take place.

36. Ms. FLÓREZ PRIDA (Cuba) said that the Cuban delegation had taken note of all the comments made by members of the Committee and would be pleased to furnish any further information that might be required. The authorities in Cuba were constantly analysing the situation with regard to the rights of the child and were seeking ways of improving it.

37. Mrs. MBOI said that the information provided appeared to indicate that Cuba was one of the very few countries in the world where there was as yet no problem of sexually transmitted disease among minors. All young people in Cuba who engaged in premarital sex would seem to be practising safe sex. If

the number of abortions in Cuba had fallen and all couples had access to free family planning information, there was no reason for unwanted pregnancies. However, that problem being on the increase both regionally and globally, Cuba should monitor the situation closely. The Cuban authorities could usefully share their experience with other countries that were finding it difficult to convince their young people either to practise safe sex or to delay the beginning of their sexual activity.

38. In her view no satisfactory answer had been given to the Committee's questions concerning the status of the HIV/AIDS epidemic in Cuba and the action being taken in that regard.

39. The Cuban delegation had referred to the family planning information and services that were made available to couples, but the Committee's concern was whether such information and services were furnished to children. Teenage pregnancies were on the increase, and there had also been an increase in the incidence of HIV/AIDS and sexually transmitted diseases in young children.

40. The Convention could help the Cuban authorities to increase their influence and advocacy and to change existing and possibly outdated legislation, for example by raising the minimum age of marriage: girls of 14 and boys of 16 were still children biologically, physically, mentally and socially, and there was plenty of research and experience to show that child marriages were detrimental to the development not only of the couple but also of their children.

41. Mrs. SARDENBERG welcomed the delegation's statement concerning the Cuban Government's position regarding the 1993 Hague Convention on the Protection of Children and Cooperation in respect to Inter-Country Adoption. She requested confirmation that there was no discrimination in Cuba between biological and adopted children in the context of article 2 of the Convention, and asked whether legislation was under consideration that would facilitate efforts by children to learn who their real parents were, in accordance with article 7. In Cuba parents had an obligation to declare a birth within 72 hours of its occurrence, but the Committee's experience was that many countries had problems with registration in rural areas. Did such problems exist in Cuba, were there any penalties if the law was not complied with, and had there been any campaigns to encourage immediate registration?

42. The collection of data by monitoring was an area in which many United Nations bodies, including UNICEF and the Centre for Human Rights, provided technical assistance. She wished to know how the data collection system in Cuba worked, and whether there was any need for modernization or for technical assistance.

43. Mr. RABAH asked whether any non-governmental organizations had participated in the preparation of the report (CRC/C/8/Add.30), and if so which organizations and in what way. He would also like to know how the special educational institutions for juvenile offenders functioned and what was Cuba's experience in rehabilitating such offenders. Were there any training programmes for judges, magistrates, police officers, probation officers, teachers and health workers who dealt with juvenile offenders? Was

any care provided for Cuban children outside Cuba if they faced serious problems? Were there any plans for childhood development in terms of implementation of the Convention?

44. Mrs. MOKHUANE, referring to the question of the minimum age for marriage, said that girls of 14 and boys of 16 might be physically mature, but they were not emotionally mature, and many studies pointed to the health problems that arose when girls of 14 had children, not to speak of the general problems of being sexually active at a young age. She now understood why Cuba's Family Code had so many rules and regulations: it was because of the young parenthood that was promoted by the State. The quality of that parenthood appeared to be questionable, which was why the various Codes were so insistent on what it meant to be a parent. Children 14 or 16 years of age should be preparing for careers and not for parenthood, which was a big responsibility. Did childhood exist in Cuba, and if so when did young Cuban girls and boys actually enjoy it?

45. The Committee had been informed that the behavioural problems of young people in Cuba were being dealt with from a curative point of view, but it had not been explained what those behavioural problems really were. She asked what was being done to promote the psychological well-being of children outside the family and the school at the community level, and what mechanisms existed for lodging complaints outside the State and government institutions in respect of violations of the Convention.

46. Ms. OUEDRAOGO inquired whether adoptions were monitored for quality of treatment, what recourse had a child if the chosen family did not suit him, and what procedures were followed in such a case. What measures were taken to ensure the social and psychological equilibrium of abandoned or orphaned children who were adopted? It would be useful to know what was done to ensure the continuity of a child's ethnic, religious, cultural and linguistic heritage, in accordance with article 20.

47. It had been stated that the centres run by the United Nations Population Fund (UNFPA) in Cuba provided programmes of sex education; the Government should indicate to what extent such programmes ensured both parental rights and responsibilities. Further information should also be supplied on the nature of measures taken to ensure an equitable distribution of pharmaceutical products and medical supplies in poor rural and urban areas. She would like to know whether there were refugee children in Cuba, and if so, what measures were taken to assist them.

48. Mr. FULCI said that, according to the report (para. 64), there were few cases of abandoned children or children without a family in Cuba; how many in fact were there? It would be useful to know whether there existed a national association that worked in conjunction with UNICEF and whether Cuba's collaboration with UNICEF was satisfactory.

49. The CHAIRPERSON, speaking in her personal capacity, inquired what impact, if any, the economic situation had had on the quality of education, and in particular whether it had adversely affected the status of the teaching profession. It would be useful to know whether any studies had been made of

violence within the family, and what was the reaction of the authorities to the findings of such studies. What was the incidence of abuse among children?

50. Ms. FLÓREZ PRIDA (Cuba) said that under the Cuban Constitution children born in and out of wedlock enjoyed equal rights. Furthermore, the Family Code provided that all children had the same rights, regardless of the civil status of their parents. A law, adopted by the National Assembly of People's Power in 1985, abolished distinctions between natural and legitimate children, established that particulars of both parents had to be registered whether or not they were married, affirmed the legal rights of children vis-à-vis their parents, and required parents to assume responsibility for their children. Ninety-nine per cent of all births in Cuba took place in clinics, in each of which there was a civil registry office, which made possible the orderly and reliable collection of birth data. There were no legal distinctions between adoptive and other children.

51. Cuba had traditionally offered assistance to refugees. A case worthy of note was that of the numerous Namibian children and adolescents who had come to Cuba, alone or accompanied, during the Namibian struggle for independence, and had studied in Cuban schools. Following independence, they had gone home to Namibia, but many had later returned to Cuba to undertake higher studies. Over the years many young people had come to Cuba from African and Latin American countries to continue their studies while they waited for conditions to normalize at home. Cuba continued to welcome refugees and the United Nations High Commissioner for Refugees had a representative office in Havana.

52. Since 1960, Cuba's relationship with UNICEF had been excellent and had developed. UNICEF had provided considerable assistance for rural vaccination and teacher training programmes, as well as disaster relief.

53. Ms. ALIÑO said that HIV/AIDS did not constitute a significant health problem in Cuba simply because few cases existed. All Cuban polyclinics had groups of specialists in family planning and all Cubans had access to family planning information. Cuba suffered, however, from a severe shortage of contraceptives and the available supplies were reserved for couples at risk. Unwanted pregnancies therefore did occur, but were showing a downward trend. Cuban family planning policy sought to discourage early sexual activity, which could be a danger to reproductive health. If it was engaged in, the safest possible method should be adopted, namely use of the condom. A programme had just been launched which might make it possible better to satisfy the demand for that item.

54. There were two treatment programmes for AIDS patients, treatment in a sanatorium or treatment at home. Both were voluntary.

55. Replying to a question from Ms. MBOI, she said that there were 400 cases of diagnosed AIDS in the Cuban population at present; to date there had been a total of 1,000 cases. There had been no significant increase in the incidence of AIDS in the country. AIDS patients voluntarily chose to be treated in sanatoriums, in order to halt the spread of the disease, which had spread much more rapidly in other countries. Comparatively speaking, the incidence of HIV/AIDS in Cuba was insignificant. Systematic examinations were carried out

and all pregnant women, for example, were tested for the virus. Sex education had been decisive in curbing the spread of the disease. It was a concern of the Ministry of Education, the Ministry of Health, the National Centre for Sex Education and various NGOs. A university chair in sex education had been established and the subject had been introduced into educational curricula.

56. The age of consent in Cuba was 18. Permission was given for girls of 14 and boys of 16 to marry only under special circumstances. Marriage at those ages was the exception, not the rule. Furthermore, the law was under revision. Cuban policy discouraged both young marriages and early pregnancy as being detrimental to both girls and boys, who had to take on responsibilities for which they were not prepared. The Government placed great emphasis on the consensual maternity and paternity programme conducted by the Ministry of Health.

57. The Ministry of Health had an outstanding data-collection system, which had been approved by a number of international organizations. All Cuban clinics and hospitals had statistical centres, which monitored illness and mortality. Such statistics were collected weekly under the programme for mother and child care, of which she was the director. In other areas of concern, such as accidents, breastfeeding, and pregnancies at risk, Cuba had monitoring sites and hospitals, which made quantitative and qualitative assessments.

58. In all schools, including the special institutions, emphasis was placed on sports and the arts. Schoolchildren were offered vacations at parks and beaches free of charge.

59. Cuba had 281 hospitals, of which 64 were in rural areas. There were also 210 maternity centres. Pregnant women living in remote rural areas could move, several weeks before term, to a maternity centre located near a hospital. A programme had been developed to make medicines, medical supplies, and health-care education readily available in rural and mountainous areas. Visitors from UNICEF and other international organizations had been impressed by the programme's results.

60. Ms. BERETERVIDE (Cuba), referring to Cuba's mechanisms for data collection, said that there was a high degree of community participation, including use of a population sampling system. UNICEF had utilized its considerable experience in Cuba in a joint pilot programme for training regional specialists in the evaluation of collected data.

61. Referring to the question of the preparation of Cuba's report, she re-emphasized that the document now being evaluated had been prepared in 1995. The interests of children had always been a matter of priority in Cuba, which had long had programmes specially designed for children that had been expanded to cover women and families in general. Governmental bodies, NGOs and women's organizations had been involved in the initial preparatory work for the drafting of the report. The final text had been established on the basis of further reports produced by State institutions and NGOs that took account of all relevant points of view, problems encountered and recommendations made. Prior to the submission of the final report to the Committee, its contents were fully reviewed and further updated.

62. With reference to Cuba's sex education programmes, she said that there was full coordination between the work of women's organizations and the actions undertaken by the Government in that area. Governmental, non-governmental and women's organizations all played an important role in the mechanisms introduced for the submission of complaints. All citizens could lodge complaints on any matter relating to the family unit, in particular in relation to children.

63. The structures which were in place ensured good communication between State bodies and the non-governmental organizations in matters relating to children. Concern had been expressed in the Committee regarding orphans, and particularly regarding their upbringing and the question of respect for their traditions. In Cuba different specialized institutions existed for the care of children who had been abandoned or whose parents were alcoholics or in prison. In such institutions the child benefited from a more balanced emotional environment than in the home. However, taking a child away from its family could create difficulties and wherever possible the family home was the best place for a child to be. In the specialized institutions the authorities tried to work together with parents, many of whom had been rehabilitated.

64. Parents were in some cases not ready to take responsibility for their children and placement of the latter in a special institution was then preferable, although their stay there should not be indefinite. Children were sometimes left in a family environment with their grandparents or their aunt and uncle. Single mothers, of whom there were many, presented particular problems. The State often helped them to find jobs or housing so that they could again care for their children.

65. The CHAIRPERSON thanked the members of the Cuban delegation for the answers they had furnished to the Committee's questions and said that further information could be provided by the delegation in writing at a later date.

The meeting was suspended at 12.30 p.m. and resumed at 12.40 p.m.

66. The CHAIRPERSON invited the members of the Committee to comment on the replies given by the delegation of Cuba.

67. Ms. SARDENBERG expressed satisfaction with the openness of the Cuban delegation's dialogue with the Committee, but felt that the Government's report had been lacking in certain areas. Cuba was certainly to be commended for its commitment to the Convention, reflected in the country's National Action Programme for Children. Its achievements in social development, especially during the past 32 years, in very difficult circumstances, were also to be commended. The economic blockade imposed on the country had had a very negative impact on children and young people.

68. There was an absence in the Cuban report of an overall vision of the Convention, which was important for its proper implementation. There were also some problems with the institutional structures designed for its implementation. There appeared, in Cuba, to be a lack of balance between the different kinds of rights: economic, social, cultural, civil and political.

69. A number of recommendations could be made. The programmes for children that had been introduced in Cuba needed to form part of a national strategy for promotion of the rights enunciated in the Convention. Secondly, a comprehensive study should be made of the problems relating to legislation in that field. It was important also to coordinate the mechanisms for the implementation of the Convention, which should be viewed from a holistic standpoint. Cooperation with United Nations agencies at all levels should be strengthened and consideration should be given to ratification of other international human rights instruments to which Cuba had not yet acceded.

70. Ms. KARP said that Cuba's achievements had been considerable in the area of social development, given the economic constraints imposed on the country. However, the national process of development in terms of health and education programmes had begun prior to the drafting and ratification of the Convention. Following ratification, Cuba's policies, legislation and actions did not appear to have focused on the Convention as a reference document and, in their training, professionals dealing with children, such as judges, policemen and social workers, did not appear to have been given an overall vision of the Convention. Furthermore, the new amendments to legislation did not appear to focus on the instrument's general principles, in particular the need to take account of children's views. In matters of adoption and guardianship, where a child was over the age of 7, the judge concerned might, but was not obliged, to hear the child's opinion. It was necessary that Cuba's legislation should express the full range of children's rights and it was to be hoped that the dialogue that had taken place in the Committee would be publicized in Cuba so that a better understanding of children's issues and of children's rights under the Convention might be ensured.

71. Mr. KOLOSOV commended the Cuban delegation for its report and for the written responses given to the Committee's questions. In his view, the Committee should acknowledge the economic difficulties Cuba had been experiencing and should recognize the country's contribution to international cooperation demonstrated, for example, by its care for 14,000 children from Chernobyl. A misunderstanding had perhaps arisen concerning the age of majority in Cuba and the Declaration on Childhood and Youth. The Convention on the Rights of the Child did not preclude the possibility of setting the age of majority above 18 years, nor was setting it below 18 precluded. It was clear from the report and the information furnished that in Cuba majority was attained on a person's eighteenth birthday.

72. In Cuba, children generally received six years of free, compulsory education. However, there was no legal guarantee thereafter of further education, which was merely encouraged. It was therefore important to increase the number of years of compulsory schooling. It was desirable also that the ages for completion of compulsory education and admission to employment should coincide. According to paragraph 112 of the report, the age of consent to sexual intercourse in Cuba was 12 years. Clearly that age was too low and should be reconsidered. Even if a 13- or 14-year-old gave consent to such an act, that should be criminalized. The Cuban delegation had stated that the low number of suicides and the minor difficulties of begging and prostitution did not really constitute a problem. However, for Governments, for the Committee and in relation to the implementation of the Convention, every single child affected was a problem. Worldwide trends indicated that

suicide among juveniles, drug addiction and child prostitution were on the increase in many countries. It was necessary to study all such tendencies given the dangers of further increases. Cuba should, in his view, become a party to the Hague Convention on Protection of Children and Cooperation in respect of Inter-Country Adoptions of 1993.

73. Referring to paragraphs 77 and 79 of the report, he observed that the medical care statistics given related only to children under the age of 15. Since all persons under the age of 18 were entitled to protection under the Convention, as had been acknowledged by Cuba, he wished to know why the statistics did not cover those between the ages of 15 and 18?

74. Mr. FULCI agreed that Cuba should be commended for its report. He believed that it was necessary for the country to concentrate more on the establishment of general rules rather than dealing with exceptions, in the interest of protection of its children. He had been interested to note, from the information provided, that Cuban children had been affected only to a limited extent by the terrible plague of sexual abuse.

75. Ms. FLÓREZ PRIDA (Cuba) said that the Cuban delegation had sought to give all possible explanations in order to inform the Committee of the work done in Cuba to help children and young people, including that undertaken prior to the adoption of the Convention. Cuba attached enormous importance to work in favour of children and it felt a great sense of commitment in being party to the Convention on the Rights of the Child. Cuban society was far from perfect, but efforts were continuously being made in order to improve it. Work undertaken prior to the Cuban revolution included the legislation passed in 1975, as well as the adoption of the Family Code and other laws relating to children and young people. On its return to Cuba the delegation would ensure that the report was made available to the public, together with the answers given to the Committee's questions and the supplementary information that would shortly be furnished to the Committee.

76. The Committee's recommendations would be studied in order to determine in what ways Cuba's legislation could be developed and how the machinery for the care of children could be improved. She wished to emphasize that, even if the actual number of cases was small, suicide, begging and prostitution did constitute real problems for Cuba. It was important to try to find the underlying causes and appropriate solutions. New challenges were faced by the Government in the areas of economic development, expansion of the tourist industry and encouragement of foreign investment.

77. In the field of health, she wished to assure the Committee that the problems of child mortality in rural and municipal areas were being carefully analysed in order to establish the causes and find solutions. Cuba was under obligation to translate all the requirements and recommendations of the Convention into reality. It was seeking to ensure that a balance existed between the various kinds of rights: civil, political, social, economic and cultural. Cuba was a firm believer in the independence and indivisibility of all such rights.

78. The Cuban delegation had taken note of all the points raised by the Committee and particulars of ensuing action by the Government would be communicated to it. She expressed Cuba's appreciation of the opportunity to take part in dialogue with the Committee.

79. The CHAIRPERSON said that the Committee took note of Cuba's commitment to do what was best for its children. Its efforts were the subject of international interest and scrutiny and it was clear that the country had made considerable progress in the area of protection of children.

The meeting rose at 1.15 p.m.

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Fifteenth session

SUMMARY RECORD OF THE 377th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 22 May 1997, at 3 p.m.

Chairperson: Miss MASON

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CONSIDERATION OF REPORTS BY STATES PARTIES (continued)

Initial report of Ghana

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GE.97-16732 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS BY STATES PARTIES (agenda item 6) (continued)

Initial report of Ghana (CRC/C/3/Add.39; CRC/C/Q/GHA/1 (List of issues to be taken up in connection with the consideration of the initial report of Ghana); written replies by Ghana to the questions raised in the list of issues (document without symbol distributed in the meeting room, English and French only))

1. At the invitation of the Chairperson, Mrs. Aggrey-Orleans, Mrs. Quartey, Mrs. Akuffo-Amoabeng, Mr. Aggrey, Mrs. Sagoe-Moses, Mrs. Ampiah, Mrs. Katsriku and Mrs. Pobee (Ghana) took places at the Committee table.

2. Thé CHAIRPERSON welcomed the delegation of Ghana and invited it to introduce the initial report of Ghana (CRC/C/3/Add.39).

3. Mrs. AGGREY-ORLEANS (Ghana) said that Ghana had been the first State to ratify the Convention on the Rights of the Child, on 5 February 1990. Prior to that date, in 1979, the Ghana National Commission on Children had already been put in charge of coordinating the activities of child-related agencies. That Commission, composed of high-level representatives of various ministries and national bodies, worked hand in hand with intergovernmental agencies and international non-governmental organizations (NGOs) and was therefore well placed to ensure the Convention's implementation by all sectors of Government and by civil society in general.

4. Following the World Summit for Children, a multisectoral task force had been set up to draw up a national programme of action, assess the state of children in Ghana and set specific goals for all relevant ministries, bodies and organizations. The promulgation in 1992 of the Constitution of the Fourth Republic had provided an opportunity to harmonize national law with the provisions of the Convention and to enjoin Parliament to enact such laws as were necessary to ensure the survival, development and protection of children.

5. The Convention was implemented not only by national institutions but, in a more centralized fashion, by the District Assemblies, which provided basic social services and ensured community participation in programmes designed to give effect to the Convention. The resources allocated to the Assemblies had been substantially increased, which should facilitate the provision of better services for children in rural areas.

6. The task of publicizing the Convention and creating awareness among the general public was one of the main functions of the Commission on Children. In line with its mandate to submit proposed legislation to the Government, the Commission, in November 1995, had requested a multisectoral committee of legal consultants to study laws affecting children and to make proposals for legislative reforms that would give effect to the Convention. Draft legislation to be enacted shortly dealt with the child's right to maintenance and property, education and health, labour rights and juvenile criminal administration.

7. She drew the Committee's attention to the parts of the report dealing with the health sector - particularly primary health care and the expanded programme on immunization - and basic education, which should be free and compulsory for all.

8. The new strategies for implementing the Convention were being supported by donors, including United Nations agencies and international NGOs, but Ghana had to contend with the constraints imposed by its structural adjustment programme, which were compounded by the vagaries of the international economic environment and by the negative aspects of some of its own cultural and traditional practices and attitudes, which were not easy to eliminate.

9. Ghana was pleased with its achievements and remained steadfast in its commitment to the Convention's objectives. In that regard, the financial and technical support of the international community, as well as constructive discussion with the Committee, would be invaluable.

10. The CHAIRPERSON invited members of the Committee to ask questions concerning general measures of implementation (arts. 4, 42 and 44, para. 6, of the Convention) (questions 1 to 13 of the list of issues) (CRC/C/Q/GHA/1).

11. Mr. RABAH said that in the part of its report dealing with general measures of implementation, the Government did not indicate which legal texts reflected the provisions of the Convention on the Rights of the Child. Ghana had not yet defined the child in terms of age, and the initial report provided no information on the status of adolescents.

12. Mr. FULCI said the initial report lacked an overall view of the situation and a summary of the main points of a strategy genuinely aimed at implementing the rights of the child. Ghana, which had set up its National Commission on Children in 1979, might continue on that course and make the Commission an integrated mechanism responsible for monitoring action to promote and protect the rights of the child.

13. Mrs. KARP asked for information concerning the preparation of the Children's Code. What were the prospects of its being enacted, what problems did it raise and what debates had it generated? She wished to know the role of NGOs in the preparation of the National Programme of Action and their expected role in its implementation.

14. The functioning of the National Commission on Children was of great interest to the Committee. Further details on its budget and financial independence, on which its effectiveness and freedom of action depended, would be welcome. Given the number of ministries involved in implementing the Convention, it would also be useful to know whether the Commission decided on the necessary integrated policy and whether it could give instructions directly to a ministry.

15. She would like a detailed description of the means for ensuring that there was no discrimination in the area of child-related services among the different regions, and particularly between rural and urban regions, and of the measures being taken to ensure an equitable distribution of credit.

16. Mrs. SARDENBERG asked whether the mandate of the National Commission on Children had been revised since 1979 and whether the Commission's activities were evaluated periodically. That was an important point for the Committee, which was the forum for an ongoing debate on the type of institutional arrangements that were best suited to the implementation of the Convention. She knew that the Commission, which was responsible for preparing the report, was a truly multi-disciplinary body, but she wondered whether NGOs that were not members of the Commission were consulted and whether their suggestions were duly considered. The decentralization of responsibilities was to be commended, but she wished to know more about the composition of the District Assemblies and whether they included any specialists in the areas concerned. Was there a parliamentary commission on children?

17. Mr. KOLOSOV said that protection of the rights of the under-18 population could be effective only if the human rights of the population in general were also protected under international instruments. He therefore asked what other international human rights instruments had been ratified by Ghana, such as the International Covenants on Human Rights, the Geneva Conventions of 1949, the Conventions relating to the Status of Refugees and of Stateless Persons and the conventions of the International Labour Organization (ILO). If the Convention on the Rights of the Child was considered in isolation, the success of its implementation would be limited.

18. The CHAIRPERSON, speaking as a member of the Committee, asked whether the National Commission was planning to request greater autonomy and more authority and noted that its members did not include any representatives of financial decision-making bodies. It was therefore not certain that the Commission had all the technical and financial support it needed.

19. One matter that had not been dealt with in the report was the number of Ghanaian children and their share of the population. Nor was there any mention in the report of any mechanism or mediator with whom children could lodge a complaint. The report also lacked an indication of the means envisaged by Ghana for publicizing the Convention, given the high rate of illiteracy and the number of languages spoken in the country. She would like to hear about the evaluation of the Convention's implementation, which was to have been carried out early in 1997.

20. Mrs. AGGREY-ORLEANS (Ghana) said that the Ministry of Finance and Economic Planning was represented on the National Commission on Children. A restructuring of the Commission had been carried out in order to enhance its status and increase its effectiveness. Under the Constitution, a child was a person under the age of 18 years. The Law Reform Commission had determined that the age of majority should continue to be 21 years.

21. Mrs. AMPIAH (Ghana) said that the Constitution proclaimed several child-specific rights. Furthermore, the Child Maintenance Decree, certain provisions of the Criminal Code and the Labour Decree, the Intestate Succession Law, the Day-Care Centres Decree and legislation on adoption guaranteed the fundamental rights of the child.

22. The National Commission on Children had established a committee to review child-related legislation. That committee had organized regional workshops, which had produced proposals for law reform and draft legislation that had been transmitted to the Ministry of Justice. The resulting draft law would be transmitted to the Council of Ministers and Parliament for enactment before the end of the year. It dealt with the following matters: the rights of the child, protection of children, family courts, maintenance, custody and visitation rights, adoption and foster families, child labour, children's homes and day-care centres. With regard to juvenile justice, existing laws would be amended in order to raise the age of criminal responsibility and sexual consent taking the Convention into account.

23. Voting age was 18 years and the age of contractual responsibility was 21 years. The legal age for marriage was not the same for girls as for boys and the juvenile courts considered anyone under 17 years to be a minor. The reform of the legislation on children was aimed at amending discriminatory provisions. The legal age for marriage should be fixed at 18 years for boys and girls, for example. The Commission on Human Rights and Administrative Justice could hear complaints concerning violations of the rights of the child. It had dealt with one particular case in order to protect a child whose parents had been opposed to his receiving medical treatment.

24. Mrs. AKUFFO-AMOABENG (Ghana) said that NGOs had participated in the implementation of the National Programme of Action for Child Survival and Development ever since the preparatory phase. Meetings were held regularly with those organizations in order to determine what additional assistance the National Commission on Children could provide. The Commission's budget had risen since 1996 and a further increase was expected in 1998, thanks to assistance from the Ministry of Finance.

25. With regard to decentralization, 60 per cent of the District Assembly members were elected by the local community and 30 per cent appointed by the traditional authorities and the central Government. Each district had to prepare a district development plan and find the resources to finance it. The Convention had been disseminated through the broadcast media, the press, NGOs and the District Assemblies. The illiteracy rate was high in Ghana but informal educational units, which functioned under the Ministry of National Education, had contributed greatly to publicizing the Convention in local languages, even though it had not yet been translated into all the national languages.

26. Mrs. QUARTEY (Ghana) said that there was a parliamentary committee on children, the Commission on Youth, Culture and Sports.

27. Mrs. AGGREY-ORLEANS (Ghana) said that Ghana was a party to many international instruments, including the Geneva Conventions, the conventions on the protection of women and refugees and several ILO conventions. However, it had not yet ratified the International Covenant on Civil and Political Rights, as changes of government had so far delayed its accession. However, Ghana was a party to various instruments of the Organization of African Unity (OAU) which dealt with civil and political rights.

28. Mrs. MOKHUANE requested more information on the implementation in practice of laws on the protection of children and on progress in considering new legislation in that area. She would like to know what was the specific mandate of the National Commission on Children and wondered whether it had sufficient resources to realize the objectives that had been set for it.

29. Mrs. KARP wondered whether Ghana had a training programme for persons who could have to work with children, such as judges, police officers or social workers, to familiarize them with the provisions of the Convention. She also wished to know whether the Human Rights Commissioner had a particular department for dealing with complaints from children, how much priority was given to such complaints and to what extent children had access to that department.

30. Mrs. SARDENBERG asked for information on the proposed amendments to the mandate of the Commission on Children, on the manner in which its decisions were communicated to other administrative units and on whether the Commission was advisory or executive in nature. She also wished to know what were the areas of expertise of the members of the Parliamentary Commission on Youth, Culture and Sports and whether the Commission was involved in the implementation of the Convention or could play a role of catalyst in that regard. Was any role given to the local level in implementing the Convention? She would like more information on the Vision 2020 programme. How did the traditional sectors of society react to the steps undertaken to assist the electronic media in bringing about a change in traditional attitudes, and what were the principal difficulties encountered?

31. Mrs. AKUFFO-AMOABENG (Ghana) said that the principal task of the Commission on Children was to ensure coordination and liaison with all interested parties as well as to mobilize resources, whereas the various Ministries were in charge of execution. The Commission's activities had had an impact on Ghanaian society, particularly during the past two years, as a day no longer passed without newspaper coverage of child-related issues and, during field missions, it had been noted that children were aware of the Convention and were able to cite at least two or three of its articles. In the area of training, the Commission had committed itself to ensuring the training of trainers, with the support of the United Nations Children's Fund (UNICEF) and the United Kingdom organization Save the Children. Training for journalists, judges and District Assemblies should be completed by the end of the year and should continue for police officers. The child-related activities of the Commission on Human Rights and Administrative Justice had hitherto focused mainly on cases submitted to it by the regional coordinators of the National Commission or by individual district hospitals. Questions were submitted directly to the Commissioner, who was personally in charge of some of the problems that arose.

32. Some conflict was inevitable in harmonizing the district development plans, but the authorities had made an effort to integrate the various district plans both at the regional level and at the level of the National Commission on Development Planning, and the many donors who had supported the preparation of the district plans had made a major contribution. The members of the Parliamentary Commission on Youth, Culture and Sports possessed extensive expertise and had received training on the Convention. As to the

evaluation of the results obtained by the National Commission on Children, the only data received to date were those from the various ministries, but once the assessment of the state of children in Ghana had been completed, the Commission should be able to complete the evaluation.

33. Mrs. QUARTEY (Ghana), referring to the right of the child to lodge complaints, said that the Human Rights Commissioner dealt personally with each complaint addressed to him and had on several occasions gone into the field to combat the practice of Tro Kosi, or the enslavement of girls, by trying to convince people to cease the practice and allow girls to attend school. However, the legislation abolishing such practices was not sufficient to put an end to them, and people would also have to be educated if they were to abandon the practice. That would take a great deal of time.

34. Mrs. AMPIAH (Ghana), explaining the delay in the enactment of the law on children, said that the process had been relatively quick, given that the Committee responsible for reviewing legislation on children had not been created until November 1995. When the Committee had completed its work, two legal consultants had submitted a report that had been considered at regional workshops held to gather the views of the population so as to take them into account in the draft to be transmitted to the Government. With regard to article 28 of the Constitution, it was understood that it was up to the Parliament to enact laws on modalities for the protection of children, and it was that Committee which had been put in charge of preparing a draft law in which the various rights of the child would be proclaimed in detail, adhering closely to the Convention. That draft law would enable certain gaps to be filled, for example through provisions on apprenticeship in the informal sector, the duty to provide maintenance, awarding of property in case of intestate succession, regulation of children's shelters to prevent private establishments from refusing to receive handicapped children, and adoption, since Ghanaians residing abroad were not currently entitled to adopt Ghanaian children. The Commission on Human Rights and Administrative Justice had satellites at the regional and district levels which made it accessible to children throughout the country.

35. Mrs. AGGREY-ORLEANS (Ghana) said that the Vision 2020 programme was intended to help planning bodies prepare their plans in view of a national global economic and social development programme, the purpose being to ensure the country's sustainable development by the year 2020 and to define certain objectives to be reached by that time so as to bring Ghana into the group of middle-income developing countries. By the end of the first stage, which covered the period 1996-2000, the conditions and infrastructure necessary for accelerated development should be put into place.

36. The CHAIRPERSON asked whether there were any representatives of children present when the National Commission on Children took decisions that concerned them, and if not, whether the Commission planned such an eventuality. She also wished to know whether its actions extended to rural areas. Had Ghana set up any systems for the continuous collection of statistics on all areas affecting the rights of the child, and not only on health? Were those systems adequate, and if not, did Ghana need assistance from the international community?

37. Mrs. AKUFFO-AMOABENG (Ghana) said that at present it was only the Ministry of Health that supported the activities of the Commission, which was also supported by Save the Children. In the rural areas, it was only in school that children could have their views heard, and the means should therefore be found to give the same chance to children not attending school. Children were not represented on the Commission, nor did it plan to ask the Government for such representation. The Commission nonetheless cooperated very closely with NGOs dealing with children and with student representative bodies.

38. Mrs. QUARTEY (Ghana) said that much had been done to make children aware of their rights, particularly those who were not attending school, and also to make the traditional chieftains aware of those rights. However, it was very difficult to make adults accept that children had the right to express their own views. Many efforts had also been made to acquaint the population with the negative effects of certain traditional practices, such as female genital mutilation. Steps had been taken to support women who had refused to submit to such practices, as they were often isolated and ostracized. An effort was under way to end the practice known as Tro Kosi, but, although some results had already been achieved, changing attitudes was a long-term process.

39. Mrs. KARP asked whether the legal prohibition of certain cultural practices and traditions did not help change people's attitudes, even if immediate results could not be expected.

40. Mrs. OUEDRAOGO asked what Ghana was doing to make parents recognize that children had rights. She also wondered whether the district development plans called for implementation of the Convention, and if so, what the procedure was to ensure follow-up, given that, apparently, progress in 10 regions was monitored by only one district.

41. Mrs. QUARTEY (Ghana) said that efforts were being made to convince parents and the older generation that children had rights, but without endangering the family setting, and also to make children aware of their responsibilities towards their parents. In some projects aimed at promoting income-generating activities, such as those of the 31st December Women's Movement, there was also an attempt to acquaint children with their rights and to sensitize them to such issues as breastfeeding and vaccination against polio. The political will was not lacking, but the resources needed for further progress were not available.

42. Mrs. AGGREY-ORLEANS (Ghana) said that the 31st December Women's Movement, a national NGO, was headed by the wife of the President, which testified to the highest level of State commitment to promoting the rights of the child.

43. Mrs. AKUFFO-AMOABENG (Ghana) said that, because of the lack of resources to monitor the situation of children in most of the country's 110 districts, it had been decided to monitor 10 districts, or one per region, each being representative of its region. Each district had prepared its own development plan, with the help of donors, most of whom had asked that the plans should include a section on women and children, with an indication of the proportion of women and children expected to benefit from the projects planned, and that

they should call for the establishment of a follow-up mechanism. The Commission on Children intended to make greater use of those mechanisms in order to gain a more specific idea of the changing situation at the district level. The district plans would make it possible to raise funds while at the same time ensuring an equitable distribution of available resources.

44. Mrs. AMPIAH (Ghana) said it was explicitly stated in the Constitution that the Government had to prohibit degrading and other customary practices. In order to do so, it could resort only to the law, and if there was a law, there must also be a penalty. In order to heed the Constitution, the Government was therefore bound to prohibit the practices by law, although without neglecting educational action.

45. Mrs. KARP wondered whether teachers were not one of the most difficult categories to make aware of the rights of the child, as they might consider it dangerous to give children too many rights. To what extent were the provisions prohibiting certain traditional practices harmful to the health of children actually implemented? Did they help in changing attitudes?

46. Mrs. QUARTEY (Ghana) said that a workshop on the Convention had been organized for teachers and that teacher training institutions had also been made aware of the rights of the child. Those rights were part of the first-cycle curriculum of secondary education.

47. Mrs. AKUFFO-AMOABENG (Ghana) said that, in the area of traditional practices harmful to the health of women and girl children, the authorities had chosen to stress education rather than punishment, as severe penalties could have a negative impact. The people concerned could engage in those practices in secret, which would make them even more difficult to uncover.

48. The CHAIRPERSON invited the members of the Committee to ask questions with reference to the definition of the child and general principles (questions 14-24 of the list of issues).

49. Mr. RABAH asked if there were any statistics on street children and whether the authorities had taken any steps to deal with the problem.

50. Mrs. KARP asked at what age children or adolescents could receive legal advice and medical treatment without parental consent. To what extent did the new law cover the possibility for the child to express his or her views before the courts, in administrative proceedings or in any institution in which he or she might be placed? How were the views of the child and his or her best interests taken into account when policies were formulated and budgets fixed?

51. Mr. FULCI said that the authorities acknowledged the existence of child labour in the informal sector, as confirmed by a 1992-1993 ILO study in three rural districts, which found that some 26 per cent of all children were working. In that connection, there seemed to be a contradiction between paragraphs 28 and 33 of the report, the former stating that basic education was "compulsory for all children aged between 6 and 15 years", and the latter that efforts were being made "to organize educational programmes for children who must work during school hours". Would any initiatives be taken to attempt to eliminate that contradiction?

52. Mrs. OUEDRAOGO asked what was done when a family did not send its children to school, or in order to avoid dropping out from school. Were any steps taken to increase the number of girls attending school, particularly in regions where cultural practices tended to deny them the right to education?

53. Mrs. MOI asked whether children ever lied about their age or falsified documents about their age so as to be able to work. Was a child under 18 years but who was already married allowed to work?

54. Regarding the age of sexual consent, according to paragraph 34 of the report, "between 14 years and the marriageable age of 18 years no special legal protection exists for girls". That was a matter of concern, as it was precisely at that time of their life that girls could be pushed into prostitution because of poverty. According to paragraph 37 of the report, the age of criminal responsibility was seven years, and she wondered what the responsibility of so young a child might entail.

55. Mr. KOLOSOV said that article 2, paragraph 1, of the Convention contained a very comprehensive list of the grounds on which discrimination was prohibited. While it was true that the Constitution of Ghana forbade discrimination, it did not reiterate those grounds. Were the authorities planning to adopt any complementary laws aimed at reflecting article 2 of the Convention more adequately? Had any study been undertaken of discriminatory practices in Ghanaian society?

56. Mrs. SARDENBERG asked for further information on the meaning of the statements in paragraph 40 of the report that, under the Constitution, "age is not a category to benefit from non-discrimination" and "the social implications of this omission may be important". Were any specific measures or programmes planned to deal with the problem? It would also be useful to have information concerning reports that only discrimination as to residence was prohibited in respect of persons with disabilities.

57. Mrs. MOKHUANE asked whether there were any statistics on the school drop-out rate and what steps were being taken to combat dropping out. According to the report, child labour was linked to the fact that children's families were often very poor. What was the Government doing to combat family poverty? Were there any studies on the causes of the phenomenon of street children? While poverty was certainly one of its main causes, the ill-treatment or trauma experienced by street children could also play a major role.

58. Mr. RABAH asked whether there was any specific administration of justice for juveniles and any special management of reform schools.

59. Mrs. KARP asked why, within the framework of the juvenile courts, minors were considered to be persons under the age of 17, and not under the age of 18, years. There had supposedly been plans to harmonize the legislation so that the definition of the child would uniformly be a person under the age of 18.

60. The CHAIRPERSON said that Ghana had two legal systems, written law and customary law. She wondered what happened when there was conflict between the two systems, particularly with regard to marriage. Could, for example, a young woman married under customary law request a divorce under written law? Similarly, what was the weight of a customary marriage to which the parents of one of the two spouses were opposed? She asked what the civil status of persons married before the age of 18 was and whether they were considered to be adults.

The meeting rose at 6 p.m.